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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,123	03/15/2004	William Dennis Nottingham	740085.402C1	9178

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EXAMINER

SINGH, SUNIL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. **10/801,123**

Applicant(s)

10/801,123

NOTTINGHAM

Examiner

Art Unit

Sunil Singh

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-9, 11-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burkemper or Hunsucker or Murray, Jr., Borberg or Dougherty et al. or Buckingham or Conkling or Conkling or Boardman (US 4419030, 3302412, 2128428, 2004188, 1806967, 1032109, 1012124, 923110).

See Figures 4B; 2,3,5; 1; 2; 1; 1; 1-3; 1; 1-4; respectively. It should be noted that these figures are no different than figures 4, 5A, 5B depicted in applicants' drawings.

3. Claims 1,3-9,11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Cahill or Cahill or Cushing (US 1951293, 1951292, 1437044).

See Figs. 3, 1, 4 respectively.

4. Claims 1, 3-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Troye (US 1341949).

See Fig. 7.

Art Unit: 3673

5. Claims 1, 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Thackray (US 1896259).

Thackray discloses claims 1, 4-7 (see Fig. 10); claim 14 is taught Thackray see col. 2 line 30+.

6. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hausler or Conkling or Conkling et al.(US 2074906, 1071985,968450).

Conkling discloses claims 1-12, (see Figs. 2, 7, 4 respectively).

Response to Arguments

7. Applicant's arguments filed 3/28/05 have been fully considered but they are not persuasive. Applicant argues that the sheet pile configuration as taught by Thackray is incapable of resisting tension forces and thus incorporates the use of tie rods and deadman anchors. The examiner does not concur. The sheet pile structure disclosed by Thackray (Fig. 10) is equivalent to Figure 4 of applicants'; therefore inasmuch applicant's sheet pile structure is capable of resisting tension forces then so is Thackray.

8. Applicant states that she fails to see how Hausler anticipates the claims. The structure shown in Figure 2 of Hausler is equivalent to Figure 5c of applicants' therefore inasmuch applicant's sheet pile structure shows soil anchor that provides resistance in a direction less than normal to the face of the sheet pile thus increasing the overall tension or pullout resistance of the wall system then so is Hausler.

Art Unit: 3673

9. Applicant argues that Conkling '985 teaches a closed cell. This is true; however, applicant's claims do not preclude a closed cell. Applicant argues that Conkling '985 does not describe a protrusion extending from the face of the sheet and integral therewith. The examiner is confused because Figure 7 reference (14) clearly shows this. The sheet pile structure disclosed by Conkling '985 (Fig. 7) is equivalent to Figure 5c of applicants'; therefore inasmuch applicant's sheet pile structure is capable of resisting tension forces then so is Conkling '985.

10. Applicant argues that Conkling '450 does not teach the soil anchor as called for in the claims. The structure shown in Figure 4 of Conkling '450 is equivalent to Figure 5c of applicants' (meaning the protrusion member near where reference character C is pointing to in the Conkling '450 reference is equivalent to the protrusion members 570, 580 and 590 shown in applicants' figures 5c-5e), therefore inasmuch applicant's sheet pile structure shows soil anchor that provides resistance in a direction less than normal to the face of the sheet pile thus increasing the overall tension or pullout resistance of the wall system then so is Conkling '450.

11. It should be noted that applicant failed to point out why the claims are patentable over the rejection(s) (paragraph #5-7) in the previous office action.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3673

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



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6/9/05